faegredrinker.com

Laura H. Phillips
Partner
laura.phillips@faegredrinker.com
202-842-8891 direct

Faegre Drinker Biddle & Reath LLP
1500 K Street, NW, Suite 1100
Washington, DC 20005
+1 202 842 8800 main
+1 202 842 8465 fax

May 26, 2020

VIA ELECTRONIC COMMENT FILING SYSTEM

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Meeting
Expanding Flexible Use of the 3.7 to 4.2 GHz Band
GN Docket No. 18-122

Dear Ms. Dortch:

This letter provides notice to the Federal Communications Commission ("FCC" or "Commission") under 47 C.F.R. § 1.1206, that on May 21, 2020, representatives of Intelsat License LLC ("Intelsat") and the company's undersigned counsel participated in a teleconference with members of the FCC staff – listed below. The Intelsat meeting participants included Michael DeMarco, Intelsat's Executive Vice President and Chief Services Officer, Susan Crandall, Associate General Counsel, and the undersigned. During the meeting, Intelsat focused on several issues in the C-Band Report and Order[1] that, if not addressed or clarified, could adversely affect its customers' service and thus compromise a successful accelerated transition of the lower 300 MHz of the C-band. Intelsat also highlighted the implications to any accelerated transition stemming from some of the positions expressed in comments filed in response to the FCC's April 27 Public Notice seeking comments on the preliminary cost catalog proposed by the FCC's contractor, RKF Engineering Solutions, LLC.[2]

With respect to the Report and Order, the Intelsat participants discussed with the Commission staff technical aspects of the adopted rules that pose real challenges to Intelsat's ability to ensure service continuity to all its customers. First, the Intelsat participants explained that the Commission's disallowance of protected gateway operations in the lower 300 MHz at the two future consolidated Telemetry, Tracking, and Command ("TT&C")/Gateway sites could result in loss of service continuity for customers on Intelsat's ocean-region satellites that downlink programming into the continental United States ("CONUS") that is then either uplinked to Intelsat's Galaxy satellites for CONUS distribution or distributed via fiber to cable head ends.

---

[1] *See* Expanding Flexible Use of the 3.7-4.2 GHz Band, *Report and Order and Order of Proposed Modification*, 35 FCC Rcd. 2343 (2020) (hereinafter "Report and Order").

[2] *See* Wireless Telecommunications Bureau Seeks Comment On Preliminary Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses, GN Docket No. 18-122, DA-20-457 (Apr. 27, 2020), https://docs.fcc.gov/public/attachments/DA-20-457A1.pdf.

Second, the Intelsat participants noted that the company has worked with a well-known third-party filter manufacturer that has concluded that it is not possible, due to the narrow bandwidth of the TT&C carriers utilized by Intelsat's in-orbit satellites, to design and implement a filter that could meet the Commission's adopted TT&C filter specifications. The Intelsat representatives noted that the company will provide that third-party assessment to the Commission shortly.

Third, the Intelsat participants expressed concern that the rules for flexible use operations, as adopted, may not adequately protect all earth stations from experiencing interference. The reason, they explained, is that the Power Flux Density limit adopted in the Report and Order leaves some earth stations outside of the envelope of protection and subject to potential interference from out-of-band emissions from flexible use operations.

The Intelsat representatives also raised two discrete procedural issues of concern. One relates to the December 5, 2021 acceleration deadline for TT&C sites to be consolidated. Based on the scope of the work necessary for consolidation, Intelsat believes that this current deadline would be impossible to meet, and given the way the Partial Economic Areas ("PEAs") are to be sequenced for use by new flexible use licensees, pushing the consolidation deadline to December 5, 2023 would not adversely affect those licensees. Additionally, the Intelsat representatives raised a concern that COVID-19 could affect a range of interdependent matters, such as the availability of specialized labor and interruption of supply chains, and asked the Commission to signal a willingness to consider, if necessary, deadline waivers if COVID-19-related delays outside of satellite operators' control occur during the acceleration period.

With respect to the comments filed in response to the recent Public Notice regarding the preliminary cost catalog, the Intelsat representatives specifically urged the Commission to focus on two items. First, the Intelsat participants urged the Commission to reject Eutelsat's argument that "only satellites that operate solely with a C-band payload . . . are eligible for reimbursement."[3] Intelsat's current satellites generally are configured with more than just a C-band payload and their replacements should be allowed to be similarly configured. The Intelsat participants argued that Eutelsat's proposed restriction is unwarranted because to the extent that any satellites necessary to achieve acceleration were to have additional frequencies beyond C-band, Intelsat would only seek reimbursement for the C-band payload costs. Requiring satellite operators to procure and launch two different satellites with different payloads at a single location for operations in different frequency bands to replace a single satellite would be highly inefficient, more costly and have the potential to delay the overall clearing schedule.

The Intelsat participants also raised a concern regarding comments urging the Commission to allow cable operators to separately select equipment to be installed for compression at their earth stations.[4] The Intelsat participants pointed out that the preliminary cost catalog was correct in concluding that compression equipment – such as integrated receivers/decoders ("IRDs") – should be tied to the satellite transponder because only the earth stations associated with the compressed transponder would need to install these IRDs (or similar compression equipment). Moreover, all affiliates of the programmer being compressed must install the same equipment as the programmer; the affiliates cannot each select their own

---

[3] Eutelsat Comments, 6 (May 14, 2020), https://ecfsapi.fcc.gov/file/10514307455647/Eutelsat Cost Catalog Comments (FINAL 2020-05-14).pdf.

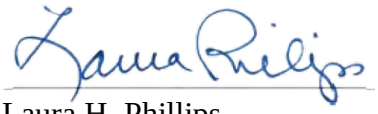
[4] ACA Connects Comments, 24-26 (May 14, 2020), https://protect-us.mimecast.com/s/5wwcC9rBvAIzENw4IPMTuU?domain=ecfsapi.fcc.gov.

technology or the programmer will not have an acceptable compression solution and the acceleration timetable likely will not be met. The Intelsat representatives explained that if a programmer were to decide to employ compression technology today, that programmer would select its compression equipment and deliver that equipment to its affiliates, who would be obligated to install it pursuant to their affiliate agreements with the programmer. There is no reason for the FCC to alter this long-standing process.

Finally, the Intelsat representatives noted that some comments could be read to suggest that the customers, and not the satellite operators, should drive the decisions about which customer services are compressed.[5] On this point, the Intelsat participants stated that Intelsat's position aligns with the comment submitted by AT&T – "not all satellite customers will require technology upgrades" and "satellite operators are best positioned to determine, on a customer-by-customer basis, where technology upgrades are necessary to ensure that capacity needs are met post-migration."[6] The Intelsat participants urged the FCC to maintain the position that the compression determination needs to be made by the satellite operator,[7] but explained that a programmer selected by Intelsat for compression will be allowed to select the compression equipment it wishes to employ so long as that choice is reasonable in light of the clearing timeline.

Please contact the undersigned with any questions regarding this letter.

Respectfully submitted,



Laura H. Phillips
Counsel for Intelsat License LLC

cc: Becky Tangren
Jim Schlichting
Paul Powell
Margy Weiner
Jonathan Campbell
Anna Gentry
Nellie Foosaner
Susannah Larson
Robert Nelson
Kerry Murray

---

[5] National Association of Broadcasters Comments, 9-10 (May 14, 2020), https://ecfsapi.fcc.gov/file/10514039020761/C-band%20cost%20catalog%20comments%205.14.20.pdf ("[T]he Bureau should consider . . . whether it would be appropriate to provide more flexibility to other affected entities to seek reimbursement for these costs consistent with their own technology choices . . . .")

[6] AT&T Comments, 2-3 (May 14, 2020), https://ecfsapi.fcc.gov/file/10514032622310/2020-05-14%20Cost%20Category%20Comments-FINAL.pdf.

[7] *Cf.* Report and Order, paras. 201, 209, 303, fn. 565, App'x A, § 27.1412(d)(1) (suggesting that satellite operators are responsible for making technology choices in the Transition Plan and to provide necessary technology upgrades to "customers identified" by the satellite operators).